IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 35032 of 2007(U)

PETITIONER:

P.POCKER MASTER, AGED 67 YEARS,
S/O.KUNHUBADVAN, P.P.HOUSE,
GOKUL STREET, KUTHUPARAMBA.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID

RESPONDENTS:
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1. **TAHSILDAR,**
   REVENUE RECOVERY, THALASSERY.

2. **DISTRICT COLLECTOR,**
   KANNUR.

3. **VILLAGE OFFICER,**
   KADAUKUNU,
   THALASSERY TALUK.

4. **STATE OF KERALA,**
   REPRESENTED BY GOVERNMENT PLEADER,
   HIGH COURT OF KERALA.

BY GOVERNMENT PLEADER SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 35032 OF 2007 U
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Dated this the 27th day of November, 2007

J U D G M E N T

Writ petition has been filed by the petitioner challenging the revenue recovery proceedings initiated against the property covered by Ext.P1. It is the petitioner's contention that the gift evidenced by Ext.P1 in favour of his daughter did not take effect and that he is still in possession of the property. Petitioner also submits that revenue recovery proceedings have been initiated by the Sales Tax Authorities on the basis that gift has come into effect. Objecting to the revenue recovery proceedings, petitioner submits that he has filed Ext.P3 application under Section 46 of the Revenue Recovery Act before the 1st respondent. As the sale is now scheduled to take place tomorrow, this writ petition has been filed and petitioner now mainly contends that the 1st respondent should be directed to consider Ext.P3 and take a decision before the property is sold.

2. In view of the limited request that is made by the petitioner, I am inclined to dispose of this writ petition, but however, that can only be subject to conditions.

3. Therefore, taking into account the submissions that are made, this writ petition is disposed of with the following directions.

1) That before the sale pursuant to Ext.P5 takes place tomorrow, petitioner shall deposit 50% of the amount that is due as per Ext.P5.

2) Subject to the deposit as above, the sale now scheduled to take place on 28/11/07, shall be adjourned.

3) If the petitioner makes deposit as above, 1st respondent shall take up and consider Ext.P3 and pass orders thereon, with notice to the petitioner and in the meanwhile sale shall not be held.

4) Thereafter, further proceedings in respect of the revenue recovery in respect of the property covered by Ext.P1 will depend upon the decision to be taken on Ext.P3.

ANTONY DOMINIC, JUDGE.

Rp